

COMMITTEE ON THE IMPACT OF DOMESTIC VIOLENCE AND THE COURTS

Meeting Minutes

December 11, 2002

12:00 – 4:00 PM

State Courts Building

Conference Room 119 A&B

Phoenix, AZ

CIDVC Members Present

Hon. Karen O'Connor, Chair
Hon. Chris Wotruba, Vice Chair
Hon. George Anagnost
Allie Bones
Martha Fraser Harmon
Bob James
Hon. Ronald Karp
Dr. Teresa Lanier
Robert M. Lehner
Hon. Mark Moran
John Pombier, Esq.

Margaret Bentzen
Hallie Bonger-White, Esq.
Hon. Sherry Geisler
Dr. Anu Partap
Donna Irwin
Patricia Klahr
Hon. Mary Helen Maley
Tracey Wilkinson

Guests

Dr. Rene Bartos, Tucson
David Berg, Information Technology
Division, AOC
Steve Gram, Sage Counseling
Karen Kretschman, Court Services, AOC
Carl Mangold, Dynamic Living
Susan Pickard, Court Services, AOC
Dianne Post, AzCADV
Dawn Russo, West Valley Court Diversion
Services

Members participating by telephone

Denise Lundin

Members using a Proxy

Jerry Bernstein
Hon. Dana Hendrix
Sheri Lauritano

Members RSVP (unable to attend)

Staff Present

Catherine Drezak

Quorum: Yes

1. Call Meeting to Order: Commissioner Wotruba

The meeting was called to order at 12:30 PM. All those persons present introduced themselves. Guests attending the meeting were welcomed.

2. Review of Previous Meeting Minutes: Commissioner Wotruba

Minutes of the October 16, 2002 meeting were reviewed and no additions or corrections were offered.

Motion: Approve October 16, 2002 as presented.

Vote: Pass

Tasks: None

3. Meeting Business: Commissioner Wotruba

A. Batterer Accountability Recommendations: Men's Anti-violence Network, Carl Mangold, Dawn Russo and Steve Grams presenting.

Originally a group of providers from around the state, all of whom are licensed to provide domestic violence treatment services, met with the Batterer Accountability Subcommittee. They discussed which programs work, which do not and what to do differently. A primary focus was to work with the state criminal justice system and related agencies. The final proposal was brought to the Governor's Commission on Domestic Violence. Of the recommendations, MAN recommends three priorities:

1. Send offenders to licensed and appropriate domestic violence treatment.
There is a problem across the state of offenders being sent to unlicensed programs or inappropriate programs such as anger management. In rural areas especially the problem is that there are not licensed programs available. However, continuing referrals to unlicensed programs does not provide an incentive for them to become licensed. Another issue is that clients get enrolled in a class, marriage counseling or church run program to get a "jump" on the system. The court should refer the offender with a dv problem and the prosecutor needs to be involved as well. There needs to be a focus on the domestic violence issues.
2. Let the providers, not the courts, determine the length of the program based on an intake assessment.
Offender treatment curriculums have developed and improved over time. The current "second wave" programming- structured such as "Amend," "Emerge" or the "Duluth Model"- are a "one size fits all" program. Lengths vary from 16-52 weeks and are imposed for first time offenses, with no exceptions. Although there are not many studies available, a variety of studies show low recidivism rates. Also, earlier intervention by the criminal justice system is helping to get offenders into treatment earlier and imposing sanctions is getting better results. Studies appear to show that longer treatment plans for repeat offenders achieve better results. A cooperative relationship between courts and providers helps to decrease recidivism.
3. Develop standard consequences for non-compliance.
Courts often just send the abuser back to the program, with City and Justice courts doing this most often. Also, summary probation is a court order and failure to comply is a violation of a court order. Prosecutorial discretion allows the offender to be charged for violating summary probation. There needs to be open communication between the court and the prosecutor. Most offender accountability programs send monthly reports to the courts and coordination needs to occur to hold offenders accountable. Everyone is aware that budgets for all of the courts are being

severely cut and additional “status hearings are not likely in the near future.” Developing a formalized sanction program can help to meet the need. These recommendation could be included into the benchbook and may at some point, be incorporated into new judge orientation. The next step is to create a package to hand out at judicial conferences.

Motion: Approve recommendations.

Vote: Pass

Tasks: Get into DV Benchbook by the Education Workgroup. Contact Sierra Vista city court- has a program.

B. Integrated Family Court (IFC) Recommendations: Mr. Phil Knox

At the October 16, 2002 meeting of this committee, the IFC Plan (Plan) was presented. The members had a number of questions about this proposal and asked that Mr. Knox attend today’s meeting to clarify those issues. Mr. Knox began by stating that he would like to cover three specific areas in his presentation:

- outline the Plan changes that have been offered,
- respond to the questions and concerns raised during the October 16, 2002, CIDVC meeting, and
- answer any additional questions the committee may have during the presentation.

The goal of the presentation is to garner support from CIDVC for the Plan.

Several changes have been offered and are indicated in the Plan (underlined) regarding high volume courts, membership on the statewide and local family court committees, confidentiality and the National Council of Family and Juvenile Court Judges Model Code. These changes will be offered to the Domestic Relations Committee (DRC) on Friday, December 13, 2002, to be included in the final proposal.

Regarding the concerns about domestic violence victims and alternative dispute resolution, the IFC Workgroup used the phrase “most appropriate and available dispute resolution possible” throughout the document. This does not guarantee that mediation will not be ordered in some cases where there is domestic violence present; however, it also does not mandate that mediation will be ordered in those cases

Another concern was the apparent lack of a DV advocate on the IFC Workgroup. While not listed in the membership list at the back of the Plan, a DV advocate was in attendance at the meetings and invited to provide input.

The criminal aspect of domestic violence was not addressed in the Plan, but other recommendations were made to encompass that possibility, such as creating one court to hear “full range of cases,” when possible. CIDVC members believe that the plan should at least include DV misdemeanor crimes because victims get shuffled around and often have to go to a variety of courts and they need a “one stop shopping” concept. As a member pointed out the Plan does not deal with enforcement, but issuance of protective orders.

The timeliness of judicial training on domestic violence remains an issue.

The committee members noted that court record confidentiality; how to protect domestic violence victim information needs to be specifically addressed. As Mr. Knox explained, this is still an open issue and it ultimately comes down to implementation at the local level. One committee member stated, “The Clerks office is swamped now; to believe that they will be able ... to process documents... as a result of this proposal... is naive.” Confidentiality remains a concern not only in cases involving domestic violence, but those where a mental health evaluation has been done and dependency and juvenile matters.

The IFC Plan outlines which cases are eligible for the IFC versus regular superior court. The mechanism is that the family court advisory counsel in each county will submit a proposal for entry of a case into the IFC system. A case screening by case coordinators will be made to make the determination.

Another concern that was raised is how to make the assignment to the IFC more attractive to judicial officers. Mr. Knox related comments from the judges and court staff that were involved in the Maricopa County Integrated Family Court Pilot Project., stating that the experience did provide for a more attractive assignment.

The Self-Funding Proposal, which increases user fees, is the recommended funding source. The Proposal is part of the package that will be submitted to the Legislature to further enhance the rough bill that Legislative Council has already drafted.

Several members expressed reservation about the process of going from concept to implementation; the concept is a good one, but it needs additional detail. It was suggested that the IFC Workgroup recognize that in its current form the Plan, when submitted to the Legislature, may “sputter and die”. One member suggested that if the committee members were to vote “no,” the message they would be sending is that they do not approve of this concept. The member went further to state that this proposal is the philosophical underpinnings and provides a path for the implementation at the county level based on their resources and uniqueness. Offering this framework assists the counties’ focus; it offers a lot of flexibility that is not found in many other systems in other states.

Copies of the rough draft legislation were distributed to and reviewed by the membership. They found no large deviation between the Plan and the proposed legislation; the legislative language is essentially “lifted” from the IFC document and is more “concept” than “detail.”

Motion: Support of approving the recommendations of IFC Workgroup as personified by the legislation.

Vote: Passed, Unanimously
Allie Bones explained her vote as in favor of concept, tempered by the concern that the use of alternative dispute resolution as it relates to domestic violence, judicial training and the make up of the county committees needs to explicitly addressed.

Tasks: None

C. “J. Doe” on Protective Orders Issue: Judge Ellie Finn

These types of orders are not frequently issued. When they are used it is usually in injunction against harassment cases and rarely in order of protection cases. You can issue civil proceedings against unknown persons and since protective orders are civil cases, some judges believe they can issue a protective order against an unknown person. However, protective orders are enforced in a criminal proceeding, which means the defendant has to have notice. There is no way to send a notice to an unknown person and no clear way to prosecute someone as a “John Doe who lives at (listed) address.” There is way to prosecute for a violation. However, the committee doesn’t want to hamper judicial discretion in the event a need arises due to unusual circumstances.

Motion: Amend the DV Benchbook to include a strong recommendation, as a policy decision do not issue a protective order against an unknown person. - except in “exigent” circumstances.

Vote: Pass

Tasks: Draft up and submit for DV Benchbook Workgroup review

D. Children & DV: Dr. Renee Bartos

Dr. Bartos presented a detailed presentation on the effects of DV on children. Her research included statistics on the negative effects of witnessing DV. Witnessing DV is as damaging to children as being abused. Although much of the information is focused on women due to the overwhelming number of female victims it should not be viewed as an “anti-Dad” campaign. Along with the misconception that domestic violence services are a “female” campaign is the concept of “false” allegations. While there is a misuse of the criminal justice system by both men and women, the number of these abuses of the system pales in comparison to the overall DV problem in our society. Action items include: focus on three aspects: legislation, education and enforcement. Additionally, Dr. Bartos prepared a legislative comparison of statutes regarding supervised access to children and parenting time centers.

Motion: Table issue until Dr. Bartos discusses it with the Governor’s Community Policy Office.

Vote: None

Tasks: Post materials on the Web site.

E. Budget Issues: Karen Kretschman

Initial budget cuts during the spring cut the Court Programs funding. Recently, the new round of cuts eliminated four positions from the unit, including two unfilled positions and two staff positions. One staff member we lost was an executive secretary and the other was relocated to another division. As a result, the remaining 2 secretaries have to cover 17 committees and an equal number of workgroups and Catherine is taking on additional duties. This will impact CIDVC by reducing the amount of time the staff can devote to the committee’s activities, including lunch arrangements and the meeting schedule. We will endeavor to assist the goals of the committee. The bottom line is that there are no funds available for publishing hard copies of booklets, Benchbooks and many handouts. The

website for these matters as much as possible in the future, with the focus of keeping the committee and program going to the extent possible.

Motion: None, informational

Vote: None

Tasks: None.

F. L.E. Access to Unserved Orders: Gerald Hardt

Tabled and send to CPOR Policy Workgroup to make arrangements.

Motion: None, informational

Vote: None

Tasks: Set up a meeting.

G. CIDVC Website: Susan Pickard

Susan provided an educational presentation on the development of the CIDVC web site and its intended use to streamline the committee's business processes. When the site becomes fully activated, all minutes, agenda and meeting materials will be posted two weeks in advance of a meeting. The final website will resemble the DV Forms site but tailored for committee business.

Motion: None, informational

Vote: None

Tasks: Continue to work on site and apprise members of progress.

H. Child Safety Plan: Catherine Drezak

Catherine presented the draft Child Safety Plan to the committee. Some suggestions for improvement include: add lines for child to fill in names of people they can talk to, places they can go to, and phone numbers on the back for a child crisis line such as "Latchkey Child" program.

Motion: None, informational

Vote: None

Tasks: Update and send to members for review.

4. Old Business: Judge O'Connor

None brought up

5. New Business: Judge O'Connor

None brought up.

6. Workgroup Reports: Judge O'Connor

A. Criminal Benchbook Workgroup Report: Judge Moran

The work is almost completed and the last remaining item to be completed is an introduction chapter. The document has been completely reformatted and it will be posted for the members to review.

B. DV Forms Workgroup Report: Mr. Bob James

The workgroup decided to focus on the OP form first to incorporate some data flow changes. We need to meet a March AZTEC deadline and will be meeting on an aggressive schedule. If we meet the deadline, then the forms update will be rolled out with a planned implementation of the Maricopa Justice Courts in later fall. This will lead to an October rollout to all of the courts statewide on the Aztec system. Anyone with forms changes suggestions, please send them to any workgroup member or Catherine. The next meeting is Wednesday, Dec 18 at 2:00 PM in the AOC.

7. Call to the Public: Public Attending

8. Next Meeting: February 19, 2003, 10:00 - 2:00, AOC Rm. 119 A&B, Phoenix

9. Adjournment: Judge O'Connor

The meeting adjourned at 4:00 PM.